Docket No.: SON-2967
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Koji Tsukimori et al.

Application No.: 10/799,617

Confirmation No.: 8418

Filed: March 15, 2004

Art Unit: 2111

For: EDITING SYSTEM

Examiner: F. M. Zaman

APPELLANT'S BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

INTRODUCTORY COMMENTS

This is an Appeal Brief under 37 C.F.R. §41.37 appealing the final decision of the Examiner dated December 16, 2008. Each of the topics required by 37 C.F.R. §41.37 is presented herewith and is labeled appropriately. This brief is in furtherance of the Final Office Action of December 16, 2008.

A Notice of Appeal was filed in this case on January 22, 2009, along with a Request for Panel Review. The Notice of Panel Decision from Pre-Appeal Brief Review mailed on February 11, 2009 ("the Decision) indicates that claims 9-36 remain rejected.

The Decision further indicates that the extendable time period for the filing of the Appellant's Brief will be reset to be one month from the mailing of the Decision. Accordingly, the filing of this Appellant's Brief is timely. 37 C.F.R. §1.136.

I. REAL PARTY IN INTEREST

Sony Corporation of Tokyo, Japan ("Sony") is the real party in interest of the present application. An assignment of all rights in the present application to Sony was executed by the inventor and recorded by the U.S. Patent and Trademark Office at **reel 015091, frame 0102**.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

Within the Final Office Action of December 16, 2008:

Paragraph 3 of the Office Action indicates a rejection of claims 9-36 under 35 U.S.C. §103 as allegedly being unpatentable over the Description of the Related Art (AAPA) and U.S. Patent No. 5,680,596 (Iizuka):

Thus, the status of the claims is as follows:

Claims 1-8: Canceled

Claims 9-36: Rejected

No claims are indicated within the Final Office Action to contain allowable subject matter.

Accordingly, Appellant hereby appeals the final rejection of claims 9-36 which are presented in the Claims Appendix.

IV.   STATUS OF AMENDMENTS

Provided is a statement of the status of any amendment filed subsequent to final rejection.

Subsequent to the final rejection of December 16, 2008, no Amendment After Final Action has been filed in this case.

V.   SUMMARY OF CLAIMED SUBJECT MATTER

The following description is provided for illustrative purposes and is not intended to limit the scope of the invention.

Claim 9 is drawn to an editing system comprising:	
a computer (2) having a computer interface unit (26), said computer interface unit (26) being adapted to transmit an acquisition command (C1) and to receive a timing notice signal (S2, S3); and	Page 5, lines 1-14
a timing notice apparatus (4) having a controller (11) and a timing generation unit (12), said controller (11) being adapted to receive said acquisition command (C1) and to transmit said timing notice signal (S2, S3), said timing generation unit (12) being adapted to extract frame synchronization information from a reference signal (S1),	Page 4, lines 12-22
wherein said frame synchronization information extracted from said reference signal (S1) is said timing notice signal (S2, S3), and	Page 4, lines 12-22
wherein said timing notice apparatus (4) transmits said timing notice signal (S2, S3) upon receipt of said acquisition command (C1), said timing notice signal (S2, S3) being transmitted according to a predetermined timing of image data.	Page 4, lines 12-22

Claim 16 is drawn to a computer (2) comprising:	
a computer interface unit (26) adapted to transmit an acquisition command (C1) and to receive a timing notice signal (S2, S3),	Page 5, lines 1-14
wherein a timing notice apparatus (4) extracts frame synchronization information from a reference signal (S1), said frame synchronization information extracted from said reference signal (S1) being said timing notice signal (S2, S3), and	Page 4, lines 12-22
wherein said timing notice apparatus (4) transmits said timing notice signal (S2, S3) upon receipt of said acquisition command (C1), said timing notice signal (S2, S3) being transmitted according to a predetermined timing of image data.	Page 4, lines 12-22

Claim 20 is drawn to a timing notice apparatus (4) comprising:	
a controller (11) adapted to receive an acquisition command (C1) and to transmit a timing notice signal (S2, S3); and	Page 4, lines 12-22
a timing generation unit (12) adapted to extract frame synchronization information from a reference signal (S1), said frame synchronization information extracted from said reference signal (S1) being said timing notice signal (S2, S3),	Page 4, lines 12-22
wherein said controller (11) transmits said timing notice signal (S2, S3) upon receipt of said acquisition command (C1), said timing notice signal (S2, S3) being transmitted according to a predetermined timing of image data.	Page 4, lines 12-22

Claim 23 is drawn to a method for acquiring timing, the method comprising:	
transmitting an acquisition command (C1) from an editing apparatus to a timing notice apparatus (4);	Page 12, lines 6-10
extracting frame synchronization information from a reference signal (S1); and	Page 12, lines 11-13
transmitting a timing notice signal (S2, S3) from said timing notice apparatus (4) to said editing apparatus, said timing notice signal (S2, S3) being transmitted according to a predetermined timing of image data, said frame synchronization information extracted from said reference signal (S1) being transmitted as said timing notice signal (S2, S3),	Page 12, lines 13-19
wherein said timing notice apparatus (4) transmits said timing notice signal (S2, S3) upon receipt of said acquisition command (C1).	Page 12, lines 13-19

Claim 32 is drawn to a computer readable storage medium comprising:	
an application program adapted to start processing to acquire a timing notice signal (S2, S3);	Page 5, line 19 to page 6, line 4
an application program interface adapted to generate an acquisition command (C1); and	Page 5, line 19 to page 6, line 4
a device driver adapted to transmit said acquisition command (C1) and to receive said timing notice signal (S2, S3),	Page 5, line 19 to page 6, line 12
wherein a timing notice apparatus (4) extracts frame synchronization information from a reference signal (S1), said frame synchronization information extracted from said reference signal (S1) being said timing notice signal (S2, S3), and	Page 4, lines 12-22
wherein said timing notice apparatus (4) transmits said timing notice signal (S2, S3) upon receipt of said acquisition command (C1), said timing notice signal (S2, S3) being transmitted according to a predetermined timing of image data.	Page 4, lines 12-22

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The issues presented for consideration in this appeal are as follows:

Whether the Examiner erred in rejecting claims 9-36 under 35 U.S.C. §103 as allegedly being unpatentable over the Description of the Related Art (AAPA) and U.S. Patent No. 5,680,596 (Iizuka).

These issues will be discussed hereinbelow.

VII.   ARGUMENT

In the Office Action of December 16, 2008:

The Examiner erred in rejecting claims 9-36 under 35 U.S.C. §103 as allegedly being unpatentable over the Description of the Related Art (AAPA) and U.S. Patent No. 5,680,596 (Iizuka).

For at least the following reasons, Appellant submits that this rejection is both technically and legally unsound and should therefore be reversed.

For purposes of this appeal brief only, and without conceding the teachings of any prior art reference, the claims have been grouped as indicated below.

The Examiner erred in rejecting claims 9-36 under 35 U.S.C. §103 as allegedly being unpatentable over the Description of the Related Art (AAPA) and U.S. Patent No. 5,680,596 (Iizuka).

This rejection is traversed at least for the following reasons.

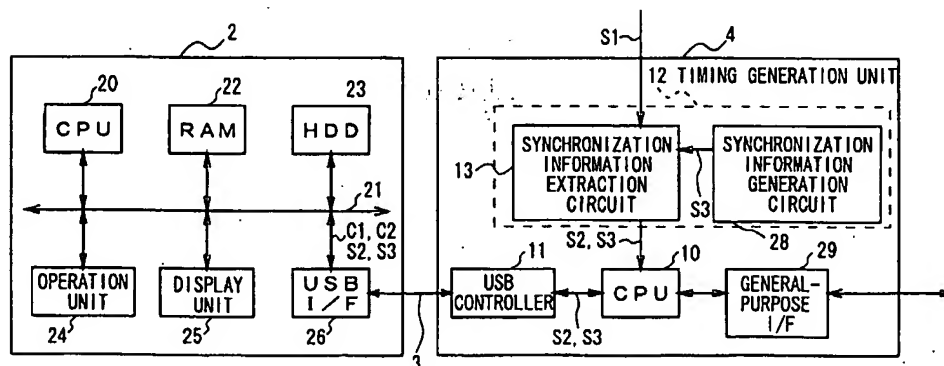Figure 2 of the specification as originally filed is provided hereinbelow.

FIG. 2

Claims 9-36 - Claims 10-15 are dependent upon claim 9. Claim 9 is drawn to an editing system comprising:

a computer (2) having a computer interface unit (26), said computer interface unit (26) being adapted to transmit an acquisition command (C1) and to receive a timing notice signal (S2, S3); and

a timing notice apparatus (4) having a controller (11) and a timing generation unit (12), said controller (11) being adapted to receive said acquisition command (C1) and to transmit said timing notice signal (S2, S3), said timing generation unit (12) being adapted to extract frame synchronization information from a reference signal (S1),

wherein said frame synchronization information extracted from said reference signal (S1) is said timing notice signal (S2, S3), and

wherein said timing notice apparatus (4) transmits said timing notice signal (S2, S3) upon receipt of said acquisition command (C1), said timing notice signal (S2, S3) being transmitted according to a predetermined timing of image data.

Claims 16-19 - Claims 17-19 are dependent upon claim 16. Claim 16 is drawn to a computer (2) comprising:

a computer interface unit (26) adapted to transmit an acquisition command (C1) and to receive a timing notice signal (S2, S3),

wherein a timing notice apparatus (4) extracts frame synchronization information from a reference signal (S1), said frame synchronization information extracted from said reference signal (S1) being said timing notice signal (S2, S3), and

wherein said timing notice apparatus (4) transmits said timing notice signal (S2, S3) upon receipt of said acquisition command (C1), said timing notice signal (S2, S3) being transmitted according to a predetermined timing of image data.

Claims 20-22 - Claims 21-22 are dependent upon claim 20. Claim 20 is drawn to a timing notice apparatus (4) comprising:

a controller (11) adapted to receive an acquisition command (C1) and to transmit a timing notice signal (S2, S3); and

a timing generation unit (12) adapted to extract frame synchronization information from a reference signal (S1), said frame synchronization information extracted from said reference signal (S1) being said timing notice signal (S2, S3),

wherein said controller (11) transmits said timing notice signal (S2, S3) upon receipt of said acquisition command (C1), said timing notice signal (S2, S3) being transmitted according to a predetermined timing of image data.

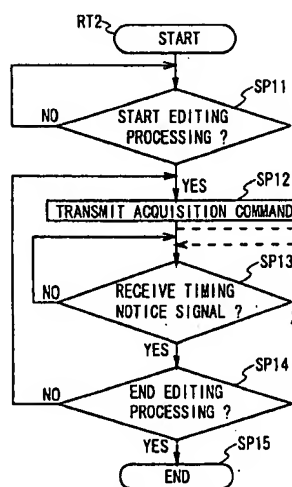Figure 4A and 4B of the specification as originally filed are provided hereinbelow.
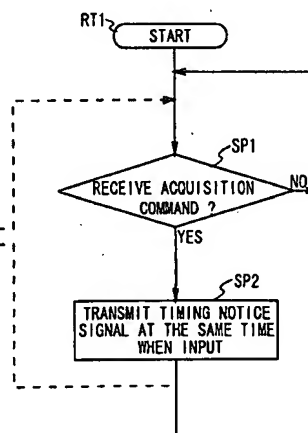

FIG. 4 B   FIG. 4 A

Claims 23-31 - Claims 24-31 are dependent upon claim 23. Claim 23 is drawn to a method for acquiring timing, the method comprising:

transmitting an acquisition command (C1) from an editing apparatus to a timing notice apparatus (4);

extracting frame synchronization information from a reference signal (S1); and

transmitting a timing notice signal (S2, S3) from said timing notice apparatus (4) to said editing apparatus, said timing notice signal (S2, S3) being transmitted according to a predetermined timing of image data, said frame synchronization information extracted from said reference signal (S1) being transmitted as said timing notice signal (S2, S3),

wherein said timing notice apparatus (4) transmits said timing notice signal (S2, S3) upon receipt of said acquisition command (C1).

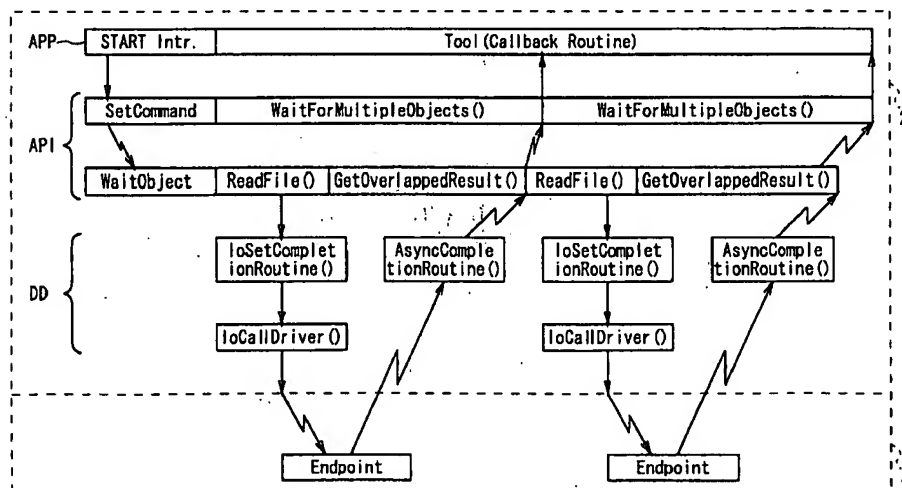Figure 3 of the specification as originally filed are provided hereinbelow.

FIG. 3

Claims 32-36 - Claims 33-36 are dependent upon claim 32. Claim 32 is drawn to a computer readable storage medium comprising:

an application program adapted to start processing to acquire a timing notice signal (S2, S3);

an application program interface adapted to generate an acquisition command (C1); and

a device driver adapted to transmit said acquisition command (C1) and to receive said timing notice signal (S2, S3),

wherein a timing notice apparatus (4) extracts frame synchronization information from a reference signal (S1), said frame synchronization information extracted from said reference signal (S1) being said timing notice signal (S2, S3), and

wherein said timing notice apparatus (4) transmits said timing notice signal (S2, S3) upon receipt of said acquisition command (C1), said timing notice signal (S2, S3) being transmitted according to a predetermined timing of image data.

AAPA - The Description of the Related Art (AAPA) may be found within the specification as originally filed at page 1, line 8, through page 2, line 6.

In particular, the specification as originally filed beginning at page 1, line 8 provides that:

In the conventional editing system, in some cases, a *personal computer* is provided with a *reference signal* in which *frame synchronization information* is sequentially stored under timing indicative of temporal beginning of a temporally consecutive frame corresponding to a frame frequency of image data to be edited (referred to as frame timing, hereinafter) so as to edit the image data to be edited in synchronization

with the frame timing generated by *extracting* the *frame synchronization information* from the *reference signal*.

However, page 3 of the Office Action *readily admits* that AAPA **fails** to teach an editing system that includes a computer having a computer interface unit, the computer interface unit being adapted to transmit an acquisition command and to receive a timing notice signal.

Page 3 of the Office Action *readily admits* that AAPA **fails** to teach an editing system that includes the controller being adapted to receive the acquisition command and to transmit the timing notice signal.

AAPA *fails* to teach an editing system wherein the frame synchronization information extracted from the reference signal is the timing notice signal.

Page 3 of the Office Action *readily admits* that AAPA **fails** to teach an editing system wherein the timing notice apparatus transmits the timing notice signal upon receipt of the acquisition command, the timing notice signal being transmitted according to a predetermined timing of image data.

Iizuka - Figure 2 of Iizuka is provided hereinbelow.

FIG. 2
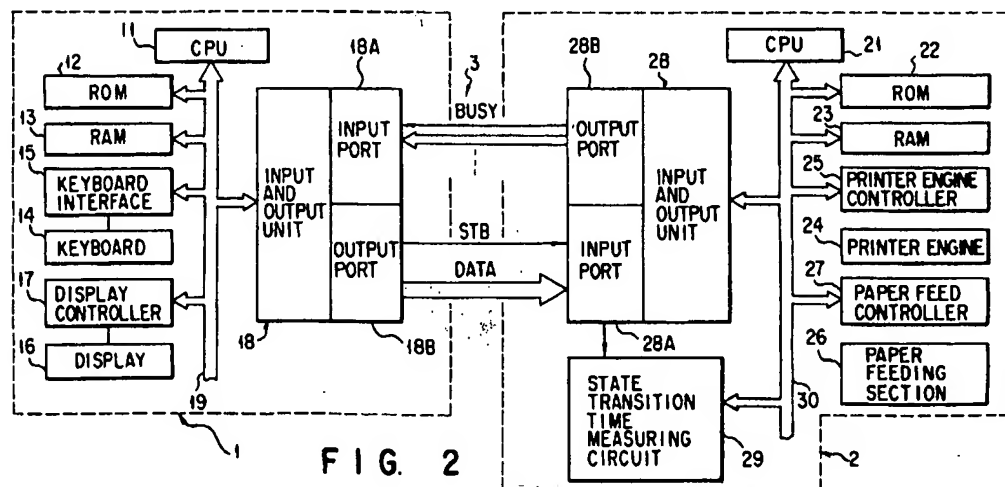
The Office Action contends that Iizuka discloses the presence of a computer having a computer interface unit (18) adapted to transmit an acquisition command (tuning data request command) and to receive a timing notice signal (tuning data signals) (Office Action at page 3).

The Office Action further contends that Iizuka discloses the presence of a timing notice apparatus (2) (Office Action at page 3).

In response to these contentions, *the timing notice signal* within the claims of the present invention is *frame synchronization information that has been extracted from a reference signal.*

However, the Office Action *fails to show* where within Iizuka there is to be found a reference signal.

Additionally, the Office Action *fails to show* where within Iizuka there is to be found that the alleged timing notice apparatus (2) is adapted to extract frame synchronization information from a reference signal.

Furthermore, the Office Action *fails to show* that the alleged tuning data signals are frame synchronization information that has been extracted from the reference signal.

As a result, the Office Action *fails to show* the presence of a timing notice signal within Iizuka.

In the absence of timing notice signal, Iizuka *fails* to disclose, teach, or suggest an editing system that includes a computer having a computer interface unit, the computer interface unit being adapted to transmit an acquisition command and to receive a *timing notice signal.*

In the absence of timing notice signal, Iizuka *fails* to disclose, teach, or suggest an editing system that includes the controller being adapted to receive the acquisition command and to transmit the *timing notice signal.*

In the absence of timing notice signal, Iizuka *fails* to disclose, teach, or suggest an editing system wherein the frame synchronization information extracted from the reference signal is the *timing notice signal*.

In the absence of timing notice signal, Iizuka *fails* to disclose, teach, or suggest an editing system wherein the timing notice apparatus *transmits the timing notice signal* upon receipt of the acquisition command, *the timing notice signal* being transmitted according to a predetermined timing of image data.

Combination of AAPA and Iizuka - Regarding, AAPA, the specification as originally filed beginning at page 1, line 8 provides that in the conventional editing system, in some cases, a *personal computer* is provided with a *reference signal* in which *frame synchronization information* is sequentially stored under timing indicative of temporal beginning of a temporally consecutive frame corresponding to a frame frequency of image data to be edited (referred to as frame timing, hereinafter) so as to edit the image data to be edited in synchronization with the frame timing generated by *extracting* the *frame synchronization information* from the *reference signal*.

While Iizuka arguably teaches the presence of a *computer 1* and a *printer 2* (Iizuka at Figure 2, column 3, line 3), Iizuka *fails* to disclose, teach, or suggest the *printer 2 as extracting the frame synchronization information from the reference signal*.

Thus, the Office Action *fails* to show why the skilled artisan would have been motivated to combine AAPA with Iizuka.

But even if the skilled artisan would have been motivated to combine AAPA with Iizuka, the combination of AAPA and Iizuka fails to show all features of the claimed invention.

AAPA and Iizuka, either individually or as a whole, fail to disclose, teach, or suggest all features of the claims found within the present application.

Withdrawal of this rejection and allowance of the claims is respectfully requested.

Conclusion

The claims are considered allowable for the same reasons discussed above, as well as for the additional features they recite.

Reversal of the Examiner's decision is respectfully requested.

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Dated: April 21, 2009   Respectfully submitted,

                                                    By_____
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CLAIMS APPENDIX

1-8. (Canceled)

9. (Previously presented) An editing system comprising:

a computer having a computer interface unit, said computer interface unit being adapted to transmit an acquisition command and to receive a timing notice signal; and

a timing notice apparatus having a controller and a timing generation unit, said controller being adapted to receive said acquisition command and to transmit said timing notice signal, said timing generation unit being adapted to extract frame synchronization information from a reference signal,

wherein said frame synchronization information extracted from said reference signal is said timing notice signal, and

wherein said timing notice apparatus transmits said timing notice signal upon receipt of said acquisition command, said timing notice signal being transmitted according to a predetermined timing of image data.

10. (Previously presented) The editing system as set forth in claim 9, wherein said computer waits to receive said timing notice signal.

11. (Previously presented) The editing system as set forth in claim 9, wherein said acquisition command is transmitted over a universal serial bus.

12. (Previously presented) The editing system as set forth in claim 9, wherein said timing notice signal is transmitted over a universal serial bus.

13. (Previously presented) The editing system as set forth in claim 9, wherein said timing notice apparatus receives operating power from said computer over a universal serial bus.

14. (Previously presented) The editing system as set forth in claim 9, wherein said predetermined timing is from the group consisting of frame timing and field timing.

15. (Previously presented) The editing system as set forth in claim 9, wherein said computer interface unit transmits said acquisition command in response to a command received through an operation unit.

16. (Previously presented) A computer comprising:

a computer interface unit adapted to transmit an acquisition command and to receive a timing notice signal,

wherein a timing notice apparatus extracts frame synchronization information from a reference signal, said frame synchronization information extracted from said reference signal being said timing notice signal, and

wherein said timing notice apparatus transmits said timing notice signal upon receipt of said acquisition command, said timing notice signal being transmitted according to a predetermined timing of image data.

17. (Previously presented) The computer as set forth in claim 16, wherein said acquisition command is transmitted over a universal serial bus.

18. (Previously presented) The computer as set forth in claim 16, wherein said timing notice signal is transmitted over a universal serial bus.

19. (Previously presented) The computer as set forth in claim 16, wherein said computer waits to receive said timing notice signal.

20. (Previously presented) A timing notice apparatus comprising:

a controller adapted to receive an acquisition command and to transmit a timing notice signal; and

a timing generation unit adapted to extract frame synchronization information from a reference signal, said frame synchronization information extracted from said reference signal being said timing notice signal,

wherein said controller transmits said timing notice signal upon receipt of said acquisition command, said timing notice signal being transmitted according to a predetermined timing of image data.

21. (Previously presented) The timing notice apparatus as set forth in claim 20, wherein said acquisition command is transmitted over a universal serial bus.

22. (Previously presented) The timing notice apparatus as set forth in claim 20, wherein said timing notice signal is transmitted over a universal serial bus.

23. (Previously presented) A method for acquiring timing, the method comprising:

transmitting an acquisition command from an editing apparatus to a timing notice apparatus;

extracting frame synchronization information from a reference signal; and

transmitting a timing notice signal from said timing notice apparatus to said editing apparatus, said timing notice signal being transmitted according to a predetermined timing of image data, said frame synchronization information extracted from said reference signal being transmitted as said timing notice signal,

wherein said timing notice apparatus transmits said timing notice signal upon receipt of said acquisition command.

24. (Previously presented) The editing method as set forth in claim 23, further comprising:

re-transmitting said acquisition command from said editing apparatus to said timing notice apparatus, said editing apparatus re-transmitting said acquisition command upon receipt of said timing notice signal.

25. (Previously presented) The editing method as set forth in claim 23, wherein said predetermined timing is from the group consisting of frame timing and field timing.

26. (Previously presented) The editing method as set forth in claim 25, wherein said frame timing corresponds to a frame frequency of said image data.

27. (Previously presented) The editing method as set forth in claim 25, wherein said field timing is indicative of temporal beginnings of first and second fields corresponding to a frame frequency of said image data.

28. (Previously presented) The editing method as set forth in claim 23, wherein said editing apparatus waits to receive said timing notice signal.

29. (Previously presented) The editing method as set forth in claim 23, wherein said acquisition command is transmitted from said editing apparatus to said timing notice apparatus over a universal serial bus.

30. (Previously presented) The editing method as set forth in claim 23, wherein said timing notice signal is transmitted from said timing notice apparatus to said editing apparatus over a universal serial bus.

31. (Previously presented) The editing method as set forth in claim 23, wherein said editing apparatus transmits said acquisition command in response to a command received through an operation unit.

32. (Previously presented) A computer program embodied on a computer readable storage medium comprising:

an application program adapted to start processing to acquire a timing notice signal;

an application program interface adapted to generate an acquisition command; and

a device driver adapted to transmit said acquisition command and to receive said timing notice signal,

wherein a timing notice apparatus extracts frame synchronization information from a reference signal, said frame synchronization information extracted from said reference signal being said timing notice signal, and

wherein said timing notice apparatus transmits said timing notice signal upon receipt of said acquisition command, said timing notice signal being transmitted according to a predetermined timing of image data.

33. (Previously presented) The computer program as set forth in claim 32, wherein said acquisition command is generated in response to a command received through an operation unit.

34. (Previously presented) The computer program as set forth in claim 32, wherein said device driver waits to receive said timing notice signal.

35. (Previously presented) The computer program as set forth in claim 32, wherein said device drive provides a reception notice to said application program interface, said reception notice indicating a reception of said timing notice signal.

36. (Previously presented) The computer program as set forth in claim 35, wherein said application program interface awaits said reception notice,

upon receipt of said reception notice, said application program interface notifies said application program of said reception notice and resends said acquisition command to said device driver for re-transmission to said timing notice apparatus.

EVIDENCE APPENDIX

There is no other evidence which will directly affect or have a bearing on the Board's decision in this appeal.

RELATED PROCEEDINGS APPENDIX

There are no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.